

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**ERICSSON INC., and
TELEFONAKTIEBOLAGET LM ERICSSON
Plaintiffs, Counterclaim
Defendants,**

v.

**SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.
and SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC,**

**Defendants, Counterclaim
Plaintiffs.**

**CIVIL ACTION NO. 6:12-cv-894-
LED**

JURY TRIAL DEMANDED

**PLAINTIFF ERICSSON'S ANSWER AND AFFIRMATIVE DEFENSES TO
DEFENDANT SAMSUNG'S RESPONSE TO ERICSSON'S ANSWER, AFFIRMATIVE
DEFENSES AND COUNTERCLAIMS TO SAMSUNG'S FIRST AMENDED ANSWER,
AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Plaintiffs Ericsson Inc. and Telefonaktiebolaget LM Ericsson (collectively, "Ericsson"), by and through their attorneys, hereby answer Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC (collectively, "Defendants" or "Samsung") purported counterclaims contained in Defendant Samsung's Response to Ericsson's Answer, Affirmative Defenses, and Counterclaims to Samsung's First Amended Answer, Affirmative Defenses and Counterclaims filed on May 16, 2013 (Dkt. No. 36) (Samsung's "Response & Counterclaims").

GENERAL DENIAL

Ericsson denies the allegations in Samsung's Response & Counterclaims unless expressly admitted in the following paragraphs.

SAMSUNG'S ANSWER & PURPORTED AFFIRMATIVE DEFENSES

Samsung's answer and purported affirmative defenses that are included in Samsung's Response & Counterclaims (*see* Dkt. No. 36, pp. 1-29) will be referred to herein as Samsung's "Answer." No response should be required to Samsung's Answer. However, to the extent any response is required, Ericsson denies the allegations in Samsung's Answer unless expressly admitted.

SAMSUNG'S PURPORTED COUNTERCLAIMS

Ericsson admits that Samsung purports to state counterclaims against Ericsson, but denies that any such counterclaims are meritorious and denies that Samsung is entitled to any relief. Samsung's purported counterclaims, which are included in Samsung's Response & Counterclaims (*see* Dkt. No. 36, pp. 29-39), are referred to herein as Samsung's "Counterclaims." To the extent Samsung repeats or incorporates by reference allegations, responses or other information from Samsung's pleadings or other filings, Ericsson repeats and incorporates by reference Ericsson's prior responses thereto.

Nature of the Action and Relief Sought

1. Ericsson repeats and incorporates by reference Ericsson's responses to Samsung's allegations as set forth in paragraphs 1-12 of Ericsson's Answer, Affirmative Defenses and Counterclaims to (Dkt. No. 33) (Ericsson's "Answer & Counterclaims") and denies any remaining allegations of paragraph 1 of Samsung's Counterclaims.

2. Ericsson admits that Samsung purports to state counterclaims against Ericsson, but denies that any such counterclaims are meritorious and denies that Samsung is entitled to any relief. Ericsson denies the remaining allegations of paragraph 2 of Samsung's Counterclaims, at least some of which are vague and ambiguous.

Parties

3. Ericsson repeats and incorporates by reference Ericsson's responses to Samsung's allegations as set forth in paragraphs 13-17 of Ericsson's Answer & Counterclaims and denies any remaining allegations of paragraph 3 of Samsung's Counterclaims.

Jurisdiction and Venue

4. Ericsson admits that Samsung's counterclaims were filed by Samsung purportedly pursuant to 35 U.S.C. § 100 et seq and 28 U.S.C. § 2201 et seq, but denies that such allegations are meritorious and denies the legal sufficiency of Samsung's claims and allegations. Ericsson denies the remaining allegations of paragraph 4 of Samsung's Counterclaims, at least some of which are vague and ambiguous.

5. Ericsson admits that, for the purposes of this action only, this Court has subject matter jurisdiction over claims relating to allegations of patent infringement pursuant to 28 U.S.C. §§ 1331 and 1338. Ericsson denies the remaining allegations of paragraph 5 of Samsung's Counterclaims.

6. Ericsson admits that venue is appropriate, for purposes of this action only, under 28 U.S.C. §§ 1391 or 1400. Ericsson denies the remaining allegations of paragraph 6 of Samsung's Counterclaims.

7. For purposes of this action only, Ericsson does not contest personal jurisdiction. Ericsson denies the remaining allegations of paragraph 7 of Samsung's Counterclaims, at least some of which are vague and ambiguous.

Alleged Factual Background

8. Ericsson repeats and incorporates by reference Ericsson's responses to Samsung's allegations as set forth in paragraphs 22-43 of Ericsson's Answer & Counterclaims and denies any remaining allegations of paragraph 8 of Samsung's Counterclaims.

Purported Counterclaims

Counterclaim Nos. 1-26:

9. Ericsson repeats and incorporates by reference Ericsson's responses to Samsung's allegations as set forth in paragraphs 44-204 of Ericsson's Answer & Counterclaims and denies any remaining allegations of paragraph 9 of Samsung's Counterclaims.

Counterclaim No. 27:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No. 6,029,125

10. Ericsson repeats and incorporates by reference paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 10 of Samsung's Counterclaims.

11. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 6,029,125 ("the '125 Patent"). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the '125 Patent. Ericsson denies the remaining allegations of paragraph 11 of Samsung's Counterclaims.

12. Ericsson denies the allegations of paragraph 12 of Samsung's Counterclaims.

13. Ericsson denies the allegations of paragraph 13 of Samsung's Counterclaims.

14. Ericsson denies the allegations of paragraph 14 of Samsung's Counterclaims.

Counterclaim No. 28:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No. 6,031,832

15. Ericsson repeats and incorporates by reference paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 15 of Samsung's Counterclaims.

16. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 6,031,832 (“the ’832 Patent”). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the ’832 Patent. Ericsson denies the remaining allegations of paragraph 16 of Samsung’s Counterclaims.

17. Ericsson denies the allegations of paragraph 17 of Samsung’s Counterclaims.

18. Ericsson denies the allegations of paragraph 18 of Samsung’s Counterclaims.

19. Ericsson denies the allegations of paragraph 19 of Samsung’s Counterclaims.

Counterclaim No. 29:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No. 6,070,078

20. Ericsson repeats and incorporates by reference paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 20 of Samsung’s Counterclaims.

21. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 6, 070,078 (“the ’078 Patent”). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the ’078 Patent. Ericsson denies the remaining allegations of paragraph 21 of Samsung’s Counterclaims.

22. Ericsson denies the allegations of paragraph 22 of Samsung’s Counterclaims.

23. Ericsson denies the allegations of paragraph 23 of Samsung’s Counterclaims.

24. Ericsson denies the allegations of paragraph 24 of Samsung’s Counterclaims.

Counterclaim No. 30:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No.
6,418,130

25. Ericsson repeats and incorporates by reference paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 25 of Samsung's Counterclaims.

26. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 6,418,130 ("the '130 Patent"). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the '130 Patent. Ericsson denies the remaining allegations of paragraph 26 of Samsung's Counterclaims.

27. Ericsson denies the allegations of paragraph 27 of Samsung's Counterclaims.

28. Ericsson denies the allegations of paragraph 28 of Samsung's Counterclaims.

29. Ericsson denies the allegations of paragraph 29 of Samsung's Counterclaims.

Counterclaim No. 31:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No.
7,149,510

30. Ericsson repeats and incorporates by reference paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 30 of Samsung's Counterclaims.

31. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 7,149,510 ("the '510 Patent"). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the '510 Patent. Ericsson denies the remaining allegations of paragraph 31 of Samsung's Counterclaims.

32. Ericsson denies the allegations of paragraph 32 of Samsung's Counterclaims.

33. Ericsson denies the allegations of paragraph 33 of Samsung's Counterclaims.

34. Ericsson denies the allegations of paragraph 34 of Samsung's Counterclaims.

Counterclaim No. 32:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No.
7,286,823

35. Ericsson repeats and incorporates by reference paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 35 of Samsung's Counterclaims.

36. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 7,286,823 ("the '823 Patent"). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the '823 Patent. Ericsson denies the remaining allegations of paragraph 36 of Samsung's Counterclaims.

37. Ericsson denies the allegations of paragraph 37 of Samsung's Counterclaims.

38. Ericsson denies the allegations of paragraph 38 of Samsung's Counterclaims.

39. Ericsson denies the allegations of paragraph 39 of Samsung's Counterclaims.

Counterclaim No. 33:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No.
8,023,990

40. Ericsson repeats and incorporates by reference its responses in paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 40 of Samsung's Counterclaims.

41. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 8,023,990 ("the '990 Patent"). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the '990 Patent. Ericsson denies the remaining allegations of paragraph 41 of Samsung's Counterclaims.

42. Ericsson denies the allegations of paragraph 42 of Samsung's Counterclaims.

43. Ericsson denies the allegations of paragraph 43 of Samsung's Counterclaims.
44. Ericsson denies the allegations of paragraph 44 of Samsung's Counterclaims.

Counterclaim No. 34:

Declaratory Judgment of Non-Infringement & Invalidity of U.S. Patent No.
8,214,710

45. Ericsson repeats and incorporates by reference its responses in paragraphs 1-9 above as though fully set forth herein and denies any remaining allegations of paragraph 45 of Samsung's Counterclaims.

46. Ericsson admits that it asserts a claim against Samsung for infringement of United States Patent No. 8,214,710 ("the '710 Patent"). Upon information and belief, Ericsson admits that a controversy exists between Ericsson and Samsung regarding the '710 Patent. Ericsson denies the remaining allegations of paragraph 46 of Samsung's Counterclaims.

47. Ericsson denies the allegations of paragraph 47 of Samsung's Counterclaims.
48. Ericsson denies the allegations of paragraph 48 of Samsung's Counterclaims.
49. Ericsson denies the allegations of paragraph 49 of Samsung's Counterclaims.

Counterclaim No. 35:

Alleged Breach of Contract

50. Ericsson repeats and incorporates by reference paragraphs 1-9 above and Ericsson's responses to Samsung's allegations as set forth in paragraphs 125-128 of Ericsson's Answer & Counterclaims. Ericsson denies any remaining allegations of paragraph 50 of Samsung's Counterclaims.

51. Ericsson admits that it owns patented inventions that are essential to the GSM, GPRS, EDGE, WCDMA, LTE and/or 802.11 wireless standards. Ericsson denies the remaining

allegations of paragraph 51 of Samsung's Counterclaims, at least some of which are vague and ambiguous.

52. Ericsson denies the allegations of paragraph 52 of Samsung's Counterclaims, at least some of which are vague and ambiguous.

Counterclaim No. 36:

Alleged Promissory Estoppel

53. Ericsson repeats and incorporates by reference paragraphs 1-9 above and Ericsson's responses to Samsung's allegations as set forth in paragraphs 129-134 of Ericsson's Answer & Counterclaims. Ericsson denies any remaining allegations of paragraph 53 of Samsung's Counterclaims.

54. Ericsson admits that it owns patented inventions that are essential to the GSM, GPRS, EDGE, WCDMA, LTE and/or 802.11 wireless standards. Ericsson denies the remaining allegations of paragraph 54 of Samsung's Counterclaims, at least some of which are vague and ambiguous.

55. Ericsson denies the allegations of paragraph 55 of Samsung's Counterclaims, at least some of which are vague and ambiguous.

Counterclaim No. 37:

Declaration of License Allegations

56. Ericsson repeats and incorporates by reference paragraphs 1-9, 25, 28, 31, 34, 37 and 40 above and Ericsson's responses to Samsung's allegations as set forth in paragraphs 135-139 of Ericsson's Answer & Counterclaims. Ericsson denies any remaining allegations of paragraph 56 of Samsung's Counterclaims.

57. Ericsson denies the allegations of paragraph 57 of Samsung's Counterclaims.

ALLEGED EXCEPTIONAL CASE

58. Ericsson denies the allegations of paragraph 58 of Samsung's Counterclaims.

RESPONSE TO DEFENDANT/COUNTERCLAIM PLAINTIFF SAMSUNG'S PRAYER FOR RELIEF

Ericsson denies that Samsung is entitled to any relief whatsoever from Ericsson as prayed for in Samsung's Response & Counterclaims or any other pleading in this case, denies that Samsung is entitled to an injunction, and denies that Samsung is entitled any other relief.

ERICSSON'S AFFIRMATIVE DEFENSES

Ericsson incorporates by reference the Affirmative Defenses stated in Ericsson's Answer & Counterclaims (*see* Dkt. No. 33 at 38-43, ¶¶206-235) as though separately alleged herein against each of Samsung's purported Counterclaims. Ericsson's inclusion of these defenses is not a concession that Ericsson bears the burden of proof with respect to any of these defenses. Ericsson reserves the right to supplement, modify, and/or amend its defenses and to take further positions as discovery proceeds.

DEMAND FOR JURY TRIAL

Ericsson hereby demands a trial by jury on all issues triable by a jury alleged or relating to this litigation. *See, e.g.*, Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Ericsson respectfully requests that this Court enter judgment in its favor and grant the relief requested in Ericsson's Answer & Counterclaims as well as an Order dismissing Samsung's Response & Counterclaims in its entirety with prejudice.

Dated: June 10, 2013

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFFS
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a)(3)(A) on June 10, 2013.

/s/ Theodore Stevenson, III
Theodore Stevenson, III